



# Legislative Locator

A Monthly Publication of The Pennsylvania Municipal League

June 2019

## TAKE ACTION!

### Ask Your House Member to Cosponsor Reps. Greiner and Grove's Pension Sustainability Plan

Representatives Greiner (R-Lancaster) and Seth Grove (R-York) has put forth cosponsorship memo [HCO2187](#). Their bill is slated to make changes to municipal pensions based on Auditor General DePasquale's 2015 Municipal Pension Task Force Report to Governor Wolf.

Provisions of their bill for new hires include – capping overtime at 10% of salary; basing final average salary on the last 60 months of service; and increasing retirement age to 55 years and 25 years of service for uniformed employees. Other provisions include – reducing the assumed rate of return on pension investments over 10 years to a more attainable rate; requiring the use of GASB accounting standards; prohibiting the use of pension state aid for plan administration; requiring disclosure of pension costs; prohibiting Deferred Retirement Option Plans (DROPs); and prohibiting plan changes that would result in plan funding dipping below 80%.

This proposal does not change the type of pension available to uniformed employees or the benefits currently provided under Act 600 or the Third Class City Code.

This proposal should be supported in a bipartisan manner as the provisions are coming directly from the Auditor General. Please call your House Member and request that he or she signs on to this important proposal.

### Thank you for Answering our Action Alert on House Bill 1400

Local officials were a huge force in slowing down the consideration of HB 1400 by the House Consumer Affairs Committee this month. At this time, the bill has been pushed to the fall. Over the summer, we will be providing updates on this bill and our strategy for the fall. Please watch future newsletters and check the Advocacy Tab on The League's [website](#) for updates.





## LEGISLATION ENACTED

### Act 6 of 2019

House Bill 275 (PN 246)

Signed: June 4, 2019

Effective: 60 days

Act 6 amends Act 47 of 1987, changing the name of the Early Intervention Program to the Strategic Management Planning Program.

## COSPONSOR MEMOS TO WATCH

### Fireworks Law – Amendments

Representatives Frank Farry and Gene DiGirolamo issued [HCO2109](#) seeking support for legislation that will address concerns raised by the enactment of Act 43 of 2017, authorizing Pennsylvania residents to buy and use larger fireworks in the state (such as bottle rockets and roman candles). Farry and DiGirolamo's proposal will offer specific guidance to local governments on reasonable controls for the sale and use of the newly authorized fireworks, implement time constraints on when fireworks can be used and increase criminal penalties for selling or using consumer fireworks in violation of the Fireworks Law.

### Clarifying PennDOT's Responsibility for Drainage Facilities on State Highways

Representative Karen Boback recently issued cosponsor memo [HCO2119](#) to ask for support for a proposal that clarifies that PennDOT would be responsible for maintaining storm water and drainage systems and facilities beneath state highways in boroughs and towns.

### County Recycling and Waste Management Fees

Representative Patty Kim issued cosponsor memo [HCO1800](#) to garner support for legislation that will authorize counties that have a recycling program to collect a recycling and waste management fee of up to \$4 per ton from the waste hauler.

### Municipal Payroll Tax

Representative Robert Merski issued [HCO2165](#) as notice of intent to introduce legislation that will authorize municipalities to levy a .55 percent Payroll Tax. The legislation will not mandate the tax, but authorize it as a tool to boost revenue.

## LEGISLATION OF INTEREST

### **Pennsylvania State Police Municipal Police Services Support Act**

**House Bill 959 (PN 1842)**, introduced by Representative Mike Sturla, establishes the PA State Police Municipal Police Services Support Act. The bill creates a population-based fee structure for municipalities receiving full-time State Police services. The fee starts at \$8/resident for municipalities under 2,000 residents. The highest fee is \$166/resident for those municipalities with a population above 20,000. An annual CPI-U adjustment is included. The State Police are authorized to develop guidelines to implement the Act. And, municipalities are authorized to impose and collect a fee from residents sufficient to cover the cost of the payment to the State Police. Municipalities in Act 47 are not subject to the fee.

If enacted, this legislation will take effect immediately.

**Location:** *House Transportation Committee, May 15, 2019*

### **Bidding Thresholds Increased for the Sale of Municipal Property**

A package of bills introduced in both the Senate and the House increase the threshold for bidding the sale of real property owned by a municipality from \$1,500 to \$6,000. This means that local governments do not have to advertise for bids for real property they wish to sell under the value of \$6,000; however, they are required to make a public announcement regarding the intent to sell such property at a regular or special meeting at least 30 days prior to the anticipated sale.

These bills are offered by Senator Scott Hutchinson and Representative Garth Everett, both members of the Local Government Commission, as follows: **Senate Bill 690 (PN 0829)** and **House Bill 1533 (PN 1935)** amend the law relating to Incorporated Towns; **Senate Bill 691 (PN 0830)** and **House Bill 1532 (PN 1934)** amend the Second Class Township Code; and **Senate Bill 692 (PN 0831)** and **House Bill 1531 (PN 1933)** amend Titles 8 (Boroughs) and 11 (Cities).

The First Class Township Code will be updated accordingly in its Code Rewrite.

If enacted, this legislation will take effect in 60 days.

**Location:** *House Bills – House Local Government Committee, May 30, 2019*

*Senate Bills – Received Second Consideration before the Senate, June 24, 2019*

### **First Responder Mental Wellness and Stress Management Program**

**House Bill 1459 (PN 1826)**, introduced by Representative Michael Schlossberg, establishes a mental wellness and stress management protocol for first responders within the PA Department of Health. The bill puts in place a number of tools for first responders to use when dealing with post-traumatic stress including peer to peer support, a toll-free helpline, Critical Incident Stress Management and trauma awareness training. Fines money from traffic violations are increased to pay for these programs.

If enacted, this legislation will take effect in 60 days.

**Location:** *House Veterans Affairs and Emergency Preparedness Committee, May 14, 2019*



## LEGISLATION OF INTEREST

### Local Regulation of Unmanned Aircraft

**Senate Bill 687 (PN 841)**, introduced by Senator Judy Ward and **House Bill 1528 (PN 1930)**, introduced by Representative Dan Moul, amend Title 53 (Municipalities Generally) authorizing local governments to regulate unmanned aircraft within their municipal borders.

The bills clarify Act 78 of 2018 allowing municipal governments to regulate the operation, control, retrieval or launch of an unmanned aircraft of any size, design or specification on or from a municipality's land, water or structures. A municipality's regulation of unmanned aircraft activity must not limit Federal, State or local governmental response to fire, rescue, police or other emergency matters.

Both bills are offered by members of the Local Government Commission.

If enacted, this legislation will take effect in 60 days.

**Location:** *Senate Bill 687 – Senate Local Government Committee, May 31, 2019*  
*House Bill 1528 – House Local Government Committee, May 30, 2019*

### Increased Compensation for Municipal Officials

**Senate Bill 688 (PN 0827)** and **House Bill 1529 (PN 1931)**, introduced by Senator Scott Martin and Representative Lee James, respectively, amend Title 8 (Boroughs) increasing the maximum compensation of borough council and the mayor. The new salary caps are based on the Consumer Price Index for all Urban Consumers since the last increase in 1995. Council may exercise an alternative option and pay compensation on a per-meeting basis based on attendance. Unexcused absences may result in the forfeiture of up to 1/12 of a council member's annual compensation.

**Senate Bill 689 (PN 0828)** and **House Bill 1530 (PN 1932)** introduced by Senator Scott Martin and Representative Lee James, respectively, amend the Second Class Township Code as per above.

If enacted, these bills will take effect in 60 days.

The First Class Township Code will receive a similar update with its Code Rewrite. The Third Class City Code provides a compensation structure that uses a minimum and therefore is not in need of an increase. These bills are being offered by members of the Local Government Commission.

**Location:** *Senate Bills 688 and 689 – Received Second Consideration before the House, June 24, 2019*  
*House Bills 1529 and 1530 – House Local Government Committee, May 31, 2019*

## LEGISLATION OF INTEREST

### Fireworks Law Amendments

**Senate Bill 696 (PN 842)**, introduced by Senator Gene Yaw, amends Act 43 of 2017 authorizing the sale and use of consumer grade fireworks to PA residents. Upon enactment in 2017, legal action was brought against the Commonwealth because the Legislature delegated rule-making standards over temporary retail sellers to the National Fire Protection Association (NFPA) which is not an Agency of the Commonwealth. These amendments to Act 43 are a result of the Commonwealth Court ruling that the Legislature did not have the authority to delegate rule-making standards to the NFPA. Senate Bill 696 changes the term “temporary structure” to “short-term structure,” but maintains the same definition and tasks the Department of Agriculture with licensing and regulating short-term structures, as opposed to the NFPA.

If enacted, this legislation will take effect in 60 days.

**Location:** *Senate Agriculture and Rural Affairs Committee, May 31, 2019*

## OTHER NEWS

### Storm Water Informational Hearing

On June 19, the House Local Government and Environmental Resources and Energy Committees held a joint hearing to discuss and share remarks on storm water fees, MS4 mandates and the management and implementation of storm water programs. Testifiers, including local elected and appointed officials, offered remarks regarding various experiences from implementing a storm water program, to collecting the fee authorized under the law. DEP did not participate.

Mayor Sherry Capello, City of Lebanon, and Public Works Director, Robin Getz, presented [testimony](#) on behalf of The League and shared the City’s experience with trying to reach storm water nutrient reduction goals as an MS4 designated community. Mr. Jeffrey Stonehill, Manager and Director of Utilities, Borough of Chambersburg, described the process of implementing a borough owned Storm Sewer System Utility and answered questions about collecting a storm water pollution control fee from the residents utilizing the utility.



Chairmen Dan Moul and Daryl Metcalfe agreed that the mandates, storm water fees and the implementation of plans to reduce pollutants and develop systems need further discussion. An additional hearing will be held by the joint committees in the future.

To read the testimony submitted, [click here](#), and, select “show” under the Environmental Resources and Energy Committee heading.

## OTHER NEWS

### Restore Pennsylvania

Two bills *with bipartisan support* were introduced on June 6, unveiling the legislation that is the [Governor's Restore Pennsylvania Plan](#). Restore PA invests in infrastructure, eradicating blight and promoting green infrastructure – among many other positives for local government. **House Bill 1585 (PN2033)**, introduced by Representative Jake Wheatley has close to 100 cosponsors and **Senate Bill 725 (PN 0902)**, introduced by Senator John Yudichak has 25 cosponsors. The bills call for a Severance Tax on natural gas extraction. Revenue from the tax would be used to pay for \$4.5 billion in up-front infrastructure investment, in the form of a bond. Funds would be awarded up front over a four-year period.

Under Restore PA, the Impact Fee currently paid by the natural gas industry would remain unaffected by the Severance Tax. **The proposed infrastructure improvements include:** high-speed Internet access for all Pennsylvanians; flood control in flood prone areas; a disaster relief trust fund; grants for local storm water management; business development centered around the natural gas industry; local blight demolition and redevelopment funding; Brownfield clean-up and contaminant remediation, including lead removal; green infrastructure investments; funding to upgrade local roads and infrastructure; and public transportation upgrades. The funding for these investments will go through existing agency programs and be in the form of grants.

Both PML and PSATC have offered general support for Restore PA.



**120<sup>TH</sup> ANNUAL  
LEAGUE SUMMIT**  
**OCTOBER 3-6**  
**Gettysburg Borough**  
Gettysburg Hotel & Majestic Theater  
[PML.org/league-summit/2019-league-summit](http://PML.org/league-summit/2019-league-summit)



### NLC Urges EPA to Delay Rulemaking on Clean Water Act Certification Process

In a letter to the U.S. Environmental Protection Agency (EPA) on May 24, the National League of Cities (NLC) urged the Agency to delay developing a proposed rule on the Clean Water Act Section 401 permitting process and to undergo a proper federalism consultation process.

While EPA is under a 120-day deadline to release new regulations as instructed by [Executive Order 13878: Promoting Energy Infrastructure and Economic Growth](#), NLC raised concerns that the short time frame does not allow EPA to fully consult with state and local governments nor to fully consider the implications of changes to the program. NLC notes that any regulatory change to the Section 401 permitting process should be developed through genuine consultation with state and local governments and must not come at the expense of state and local authority.

The Executive Order directs the EPA to review its regulations and guidance under the Clean Water Act Section 401 Water Quality Certification Program to determine whether provisions should be clarified to “promote efficient permitting processes and reduce regulatory uncertainties that currently make energy infrastructure projects expensive and that discourage new investment.”

[Section 401 of the Clean Water Act](#) provides that no federal permit or license can be issued that may result in a discharge to waters of the United States unless the state or authorized tribe certifies that the discharge is consistent with water quality requirements or waives certification. In reviewing a proposed federal permit or license, states and authorized tribes have the option to grant the permit, grant the permit with conditions, deny the permit or to waive their right to act.

This April, EPA held a [briefing](#) for state and local government associations to gather information on how the agency can improve the substance of Section 401 certifications (proper scope and information needs), as well as the process (timing requests, responsibility of the various stakeholders, information coordination). NLC’s comments were submitted in response to the April briefing.